Commencement: 18 December 1980 (Parts 1, 2, 4)
1 January 1981 (Parts 3, 5, 6, 7, 9, 10)
1 December 1981 (s. 35)
29 May 1989 (ss. 36-38)

CHAPTER 125

RESERVE BANK OF VANUATU

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RESERVE BANK OF VANUATU

To provide for the establishment of the Reserve Bank of Vanuatu and its operations, for the currency of Vanuatu, the external reserve of Vanuatu, foreign exchange dealings, regulation and supervision of insurance business and other matters connected therewith.

PART 1 – INTERPRETATION

1. Interpretation

In this Act, unless the context otherwise requires –

“Agriculture Bank” has the same meaning as in the Vanuatu Agriculture Development Bank Act No. 20 of 2006;

"bank" means a financial institution the business of which includes the acceptance of deposits of money withdrawable by cheque;

"banking business" means the business of accepting deposits of money which may be withdrawn or repaid on demand or after a fixed period or after notice and the employment of those deposits in whole or in part by lending or any other means for the account and at the risk of the person accepting such deposits and shall include merchant banking business;

"Board" means the Board of Directors of the Reserve Bank;

"financial institution" means a company which carries on banking business;

"Governor" means the Governor of the Reserve Bank;

“Insurance business” has the same meaning as in the Insurance Act No. 54 of 2005;

“licensed” means licensed under the Banking Act to conduct banking business;[1]

“merchant banking business" means any business which includes the arranging, negotiation, flotation, discounting or underwriting of loans for profit whether as principal or agent;

"Minister" means the Minister for the time being responsible for finance or any Minister acting on his behalf;

“notes" and "coin" mean, respectively, currency, notes and coin issued under the provisions of this Act;

"President" means the President of the Board;

"Reserve Bank" means the Reserve Bank of Vanuatu established under section 2(1);

“resident of Vanuatu" means any person or body of persons, corporate or unincorporate, either domiciled in Vanuatu or present or likely to be present in Vanuatu for a total period of 180 days, within a period of 12 consecutive months;

"Vatu" means currency issued under the provisions of this Act.

[1] *Editor’s note: Licensing of financial institutions carrying on banking business in Vanuatu is now governed by the Financial Institutions Act [Cap. 254].*

PART 2 – ESTABLISHMENT OF THE RESERVE BANK

2. Establishment and incorporation of the Reserve Bank

(1) There is hereby established a bank to be known as Reserve Bank of Vanuatu which shall be a body corporate under that name with perpetual succession and a common seal and which may, in such name, sue or be sued and may, subject to the provisions of this Act, enter into contracts, and acquire, hold, deal with and dispose of real and personal property of every description.

(2) All deeds, documents and other instruments required to be sealed with the common seal of the Reserve Bank shall be sealed therewith in the presence of the President and of the Governor or other persons authorised by the Reserve Bank to act on their behalf, who shall sign every such deed, document or other instrument to which such seal is affixed, and such signing shall be sufficient evidence that such seal was duly and properly affixed and that the same is the lawful seal of the Reserve Bank.

(3) Service of any document upon the Reserve Bank shall be effected by delivering the same or by sending it by registered post to the Governor.

3. Principal objects of the Reserve Bank

The principal objects of the Reserve Bank shall be –

(a) to regulate the issue, supply, availability and international exchange of money;

(aa) to supervise and regulate banking business and the extension of credit;

(b) to advise the Government on banking and monetary matters;

(c) to promote monetary stability;

(d) to promote a sound financial structure;

(e) to foster financial conditions conducive to the orderly and balanced economic development of Vanuatu;

(f) to regulate and supervise domestic and international (offshore) banks; and

(g) to regulate and supervise insurance businesses.

4. Places of business, agents, etc.

(1) The Reserve Bank shall have its principal place of business in Port Vila and may establish such branch offices elsewhere as it sees fit.

(2) The Reserve Bank may appoint such agents and correspondents as it may require from time to time.

PART 3 – CAPITAL, PROFIT AND RESERVES

5. Capital

(1) The authorised capital of the Reserve Bank shall be VT 200,000,000 and may be increased from time to time by such amounts as may be proposed by the Board and approved by the Minister. The Reserve Bank shall on its establishment issue to the Government capital stock equivalent to VT 50,000,000 which shall be a charge on and paid from the Revenue Fund. The Reserve Bank may issue from time to time to the Government such further amounts of stock which shall be fully paid as may be proposed by the Board and approved by the Minister.

(2) All capital stock of the Reserve Bank as and when issued shall be for the sole account of the Government and shall not be transferable or subject to any encumbrance. No reduction of capital shall be effected except by an amendment to this Act.

(3) In calculating the amount to be paid by the Government by way of subscription to the capital of the Reserve Bank, account shall be taken of any amounts already paid to the Reserve Bank by the Government by way of preliminary expenses and the value of any assets vested in the Reserve Bank by the Government.

(4) Despite any other provisions of this Act and subject to subsection (4A), the Minister may transfer to the ownership of the Reserve Bank, non-negotiable current market related interest rate security, or securities, with defined term issued by the Government from time to time for such an amount as is necessary for the purpose of preserving the paid-up capital from any impairment.

(4A) A transfer is to be made whenever, in the opinion of the Board, the assets of the Reserve Bank are less than the sum of liabilities and paid-up capital.

6. Net Profit

(1) The net profit of the Reserve Bank for any financial year shall be determined by the application of International Financial Reporting Standards (IFRS) and current best central bank practice.

(2) For the purposes of subsection (1), net income includes both realized and unrealized gains and losses except that for prudency, only realized gains should be available for distribution.

7. General Reserve

(1) The Reserve Bank shall establish a General Reserve to which it shall allocate at the end of each financial year of the Reserve Bank its net profit until such time as the balance of the General Reserve is equal to half the authorised capital of the Reserve Bank after which it shall allocate half the net profit until the General Reserve is equal to the authorised capital of the Reserve Bank, and thereafter 10 per cent of its net profit.

(2) After allocations have been made to the General Reserve under subsection (1), the Board may set up other special retain earning reserves from time to time as it thinks fit.

(2A) The reserves under subsection (2) may be built up by net unrealized gains in relation to foreign exchange or securities, market price fluctuations in the bank's financial assets.

(2B) Any subsequent realized components may be distributed to the bank's retained earnings or to the Government as dividends.

(3) The balance of the net profit for the financial year remaining after all deductions under subsections (1) and (2) have been made shall be paid to the Government as soon as practicable after the end of each financial year.

(4) No deduction under subsections (1) or (2) shall be required to be made nor shall any payment under subsection (3) be made if, in the judgment of the Board, the assets of the Reserve Bank are, or after the deduction or payment, would be, less than the sum of its liabilities and paid-up capital.

(5) With the approval of the Minister, the Board may direct that a part, not exceeding half, of the General Reserve may at any time after the General Reserve has reached an amount equal to half the authorised capital of the Reserve Bank be converted into issued fully-paid capital:

Provided that the amounts so converted shall not at any time exceed the difference between the issued and paid-up capital and the authorised capital of the Reserve Bank.

(6) If:

(a) a contingent or unforeseeable event arises during a financial year: or

(b) potential losses from fraud or other non insured losses have occurred,

resulting in the Bank making a loss, the general reserves may be used to cover for the exceptional losses on the Banks domestic and foreign securities, if the losses cannot be absorbed by its resources.

PART 4 – BOARD, MANAGEMENT AND EMPLOYEES

8. Board of Directors

(1) There shall be a Board of Directors of the Reserve Bank which shall be responsible for the policy and affairs of the Reserve Bank.

(2) The Board shall have power –

(a) to make rules for the conduct of the business of the Reserve Bank;

(b) to make orders with the prior approval of the Minister generally for giving effect to the purposes of this Act;

(c) to issue directives for the purpose of giving effect to the provisions of this Act.

(3) The Board shall comprise five members, namely –

(a) the Governor ex officio;

(b) the Director General of the Ministry of Finance or his or her nominee;

(c) three other members.

(4) The members of the Board referred to in paragraphs 3(b) and 3(c) are to be appointed by the Minister and must have the following criteria:

(a) degree in finance, management or other related field from a recognised university; and

(b) relevant working experience in finance , management or other related field; and

(c) competent in carrying out their responsibilities under the Act.

(4A) The Minister may remove a member from the Board who does not meet the criteria in subsection (4).

(4B) The Minister is to appoint the Chairperson of the Board from amongst the members of the Board (other than the Governor) referred to under subsection (3).

(5) The Chairperson of the Board, shall preside at meetings of the Board and shall ensure that the decisions of the Board are implemented and the provisions of this Act and any other law relating to the Reserve Bank are observed.

(6) The term of office of each member of the Board shall be specified in his letter of appointment and shall be for not more than five years.

(7) The members of the Board shall be appointed on such terms and conditions, which may not be altered to their disadvantage during their tenure of office, as may be set out in their letter of appointment and shall be eligible for reappointment.

(8) Any member of the Board, other than the Governor, may resign his office on giving notice in writing to the Minister.

(9) A member of the Board, other than the Governor, shall cease to hold office if the Minister on the recommendation of the Board finds that he is incapable of carrying out his duties, or is guilty of serious misconduct in the performance of his duties of his office, and publishes a notice in the Vanuatu Gazette declaring the office of that member vacant.

(10) A person shall be disqualified from being appointed or for continuing, as member of the Board –

(a) if he is or becomes a member of Parliament; or

(b) if he becomes a director, officer, or employee of a company other than the Reserve Bank, engaged wholly or mainly in banking business;

(c) if he is or becomes an undischarged insolvent or bankrupt;

(d) if he is convicted of an offence involving moral turpitude;

(e) in the case of a person having professional qualifications, if he is disqualified or suspended from practising his profession by the order of any competent authority made in respect of him personally by reason of his misconduct.

(11) (a) If any member of the Board dies, resigns, is removed from office or otherwise vacates his office, another person shall be appointed at the earliest opportunity to fill the vacancy.

(b) Any member of the Board appointed under paragraph (a) of this subsection shall, unless he earlier resigns or vacates his office by death or removal, hold office for the unexpired part of the term of office of the member whom he succeeds.

(12) The names of all members of the Board as first constituted and every change in the membership thereof shall be published in the Gazette.

(13) Each member of the Board, other than the Governor, shall receive such allowances as may be determined by the Minister from time to time.

8A. Appointment of the Governor and his functions

(1) The Governor shall be a person of recognised experience in financial matters, and shall be appointed by the Prime Minister on the recommendation of the Minister for a period of not more than five years and may with the prior approval of the Prime Minister on the recommendation of the Minister be eligible for re-appointment.

(2) The Governor appointed under subsection (1) shall be paid such remuneration, and be entitled to such other terms and conditions of employment as shall be specified in his letter of appointment and which may not be altered to his disadvantage during his term of office.

(3) The Governor shall be the Chief Executive Officer of the Reserve Bank and shall be responsible to the Board for the execution of its policy and the management of the Reserve Bank.

(4) Except as may otherwise be provided in this Act, the rules of the Board or in the resolutions of the Board, the Governor shall have the power to act, contract and sign instruments and documents, on behalf of the Reserve Bank.

(5) The Governor may with the approval of the Board, delegate any of his powers under this Act to the Deputy Governor, or to any other officer of the Reserve Bank.

(6) The Governor shall devote the whole of his professional services to the Bank and shall not while holding office, hold any other office, whether remunerated or not, without written permission of the Minister.

(7) Notwithstanding the provisions in the preceding subsection and any other section in this Act the Governor may –

(a) act as a nominee of the Reserve Bank;

(b) be a member of any Board, Committee or Commission established by the Government or by or under any Act of Parliament;

(c) be a Governor, Director or member of the Board of any regional or international institution of which Vanuatu or the Reserve Bank is a member.

8B. Deputy Governor

(1) (a) The Deputy Governor shall be a person of recognised experience in financial matters and shall be appointed by the Governor after consultation with the Minister for a period of not more than five years and shall be eligible for reappointment.

(b) The Deputy Governor shall be appointed on such remuneration, terms and conditions which may not be altered to his disadvantage during his term of office.

(2) In the event of the absence or incapacity of the Governor from whatsoever cause arising, the Deputy Governor appointed under subsection (1) shall have and may exercise all powers and functions of the Governor under this Act.

9. Procedure of the Board

(1) Subject to the provisions of this Act, the Board may regulate its own procedure and, in particular, may regulate the holding of meetings, the proceedings thereat, the keeping of minutes, the custody, production and inspection of minutes, and the opening, keeping, closing and audit of accounts.

(2) Three members of the Board, of whom one shall be the Governor or in his absence the Deputy Governor, shall form a quorum at any meeting and decisions shall be adopted by a simple majority of the votes of the members present except that in the event of an equality of votes the person presiding shall have and exercise a second casting vote.

(3) All acts done by a person acting in good faith as a member of the Board shall be as valid as if he were a member of the Board, notwithstanding that some defect in his appointment or qualification be afterwards discovered.

(4) No act or proceeding of the Board shall be invalidated merely by reason of the existence of a vacancy or vacancies among the members.

10. Power to appoint officers and employees

The Governor may appoint and employ, at such remuneration and on such terms and conditions as he may prescribe, such officers and employees as the Governor may consider necessary for the due performance of the objects of the Reserve Bank.

11. Meetings of the Board

The Board shall meet as often as the Governor may consider the business of the Bank may require but not less than four times a year.

11A. Allowances

(1) Subject to subsection (2), the members of the Board other than the Chairperson are entitled to a sitting allowance of not more than VT15, 000 for each day in which the Board sits for a meeting.

(2) A member of the Board who holds office, ex officio or who is a public servant appointed under the Public Service Act [CAP 246] is not entitled to a sitting allowance if the Board meets during the normal working hours.

12. Conflicts of interest

(1) No member of the Board shall act as a delegate of any commercial, financial, agricultural, industrial or other interest or receive or accept directions therefrom in respect of duties to be performed under this Act.

(2) All members of the Board shall fully disclose to the Board any commercial, financial, agricultural, industrial or other interest that they may have in any matter which becomes the subject of Board action.

(3) No member of the Board, nor any officer or employee of the Bank shall accept any gift or advantage for himself, or on his behalf for persons with whom he may have family, business or financial connections which would result, or give the appearance of resulting, in a diminution of his impartiality in any matter relating to his duties under this Act.

(4) Any person who contravenes the provisions of this section shall be guilty of an offence and liable on conviction to a fine of VT 140,000 or to imprisonment for 7 years, or to both.

13. Secrecy

(1) No member of the Board, nor any officer or employee of the Reserve Bank shall disclose to any person any information relating to the affairs of the Reserve Bank or of any bank or financial institution or other person which he has acquired in the performance of his duties under this Act except for the purpose of the performance of his duties or when lawfully required to do so by a court.

(2) Any person who contravenes the provisions of this section shall be guilty of an offence and liable on conviction to a fine of VT 140,000 or to imprisonment for 7 years, or to both.

13A. Immunity for acts done in good faith

The Board of Directors or any member thereof, the Governor and any officer, employee or person duly appointed or authorised by the Reserve Bank, shall not incur any liability or suffer any penalty as a result of anything done or for any omission made in good faith in the exercise of any power or the performance of any duty under this Act.

PART 5 – CURRENCY

14. Unit of currency

The currency unit of Vanuatu shall be the Vatu.

15. Value of currency

The value of the Vatu in terms of other currencies shall be determined by the Reserve Bank acting in accordance with written instructions given from time to time by the Minister after consultation with the Reserve Bank. Such instructions shall ensure that due regard be had to the obligations that Vanuatu has assumed under any international monetary agreement to which it is a party or to which it has adhered.

16. Obligations of the Reserve Bank in respect of convertibility of currency

The Reserve Bank shall at its principal office –

(a) at its discretion buy and sell on demand convertible foreign currency, for immediate delivery outside Vanuatu against Vatu; the foreign currency, or currencies, in which the Reserve Bank is obliged to deal with under this section shall be specified by the Minister by Order after consultation with the Reserve Bank; and

(b) at its discretion, buy and sell against Vatu other currencies eligible for inclusion in the reserve of other external assets specified in section 22:

Provided that –

(i) the rate of exchange quoted by the Reserve Bank for spot transactions shall not differ from any value determined by the Reserve Bank in accordance with

the provisions of section 15 by more than such margins as are permitted by any international monetary agreement binding on Vanuatu as may from time to time be prescribed;

(ii) the Reserve Bank shall not be required to buy or sell foreign currencies in amounts less than such minimum sum as may from time to be prescribed by the Board.

17. Sole right of issue

(1) The Reserve Bank shall have the sole right of issuing currency notes and coin for, on behalf of, and throughout, Vanuatu; and no other person shall issue currency notes, bank notes or coin or any documents or tokens payable to bearer on demand being documents or tokens having the appearance of currency notes or coin. Nor shall any person without the prior consent in writing of the Reserve Bank, produce or be in possession of, for any reason any thing or design which bears words, figures, letters, marks, lines or devices the print of which resembles in whole or in part currency notes or coin issued by the Reserve Bank.

(2) Any person who contravenes this section shall be guilty of an offence and liable on conviction to a fine of VT 140,000 or to imprisonment for 7 years or to both.

18. Printing and minting

The Reserve Bank shall –

(a) arrange for all matters related to the printing of notes and the minting of coin;

(b) issue, re-issue and redeem such notes and coin; and

(c) arrange for the safe custody of unissued stocks of notes and coin; and for the preparation, safe custody and destruction of plates for the printing of notes and of dies; for the minting of coin; and for the safe custody and disposal of withdrawn notes and coin which are not required for re-issue.

19. Denominations and form of currency

(1) Currency issued by the Reserve Bank shall be in such denominations, and of such composition weight, form and design as shall be approved by the Minister after consultation with the Reserve Bank.

(2) The characteristics of currency to be issued by the Reserve Bank, shall together with in the case of coin, the amount of tolerance and variation which shall be allowed from the standard weight and composition, be published by the Reserve Bank in the Gazette.

20. Legal tender

(1) Subject to the provisions of this section currency issued by the Reserve Bank shall be legal tender in Vanuatu –

(a) in the case of notes, for the payment of any amount;

(b) in the case of each denomination of coin, for the payment of an amount not exceeding 20 times that denomination.

(2) A note or coin that has been illegally dealt with shall not be legal tender.

(3) For the purpose of this Act, a note or coin shall have been illegally dealt with if it has been impaired, diminished or lightened otherwise than by fair wear and tear, or has been defaced by having a name, word, device or number printed, stamped or engraved thereon whether it has or has not been thereby diminished.

(4) (a) The Reserve Bank shall have power, on giving not less than 3 months' notice in the Gazette to that effect, to call in any currency notes and coins on payment of the face value thereof and any such currency notes and coins with respect to

which such notice has been given shall, upon the expiration of such notice, be demonetised and cease to be legal tender:

Provided that the holders of any such notes or coin shall be entitled subject to paragraph (c) at any time to claim payment of the face value thereof from the Reserve Bank or where a transfer in respect thereof has been made under paragraph (b) to the Revenue Fund, from the Revenue Fund.

(b) When any notes or coin cease to be legal tender under paragraph (a) an amount equivalent to the face value of any such notes or coin remaining in circulation 5 years after they have so ceased to be legal tender shall be transferred to the Revenue Fund and written off the liabilities of the Reserve Bank.

(c) Where coins are presented for payment under the proviso to paragraph (a) more than 5 years after they have ceased to be legal tender the Reserve Bank may levy a handling charge of such amount as the Board may from time to time determine.

(5) A certificate signed by an officer of the Reserve Bank, who is duly authorised by the Governor, as to the genuineness or otherwise of any Vanuatu currency note or coin shall be conclusive evidence of such fact in any legal proceedings in Vanuatu.

21. Certain notes and coin not redeemable

No person shall be entitled to recover from the Reserve Bank the value of any lost, stolen, mutilated or imperfect note or coin or of any note or coin which has been illegally dealt with, and the circumstances and conditions under which such value may be refunded as an act of grace shall be within the absolute discretion of the Reserve Bank.

PART 6 – EXTERNAL RESERVE, FOREIGN EXCHANGE OPERATIONS AND REVALUATION RESERVE ACCOUNT

22. Reserve of external assets

The Reserve Bank shall at all times maintain a reserve of external assets consisting of all or any of the following –

(a) gold;

(b) foreign exchange in the form of currency or bank balance held abroad;

(c) any internationally recognised reserve asset;

(d) bills of exchange and promissory notes denominated in foreign currency and payable at any place outside Vanuatu;

(e) treasury bills issued by foreign governments specified from time to time by the Board;

(f) securities issued or guaranteed by foreign governments or international financial institutions specified from time to time by the Board.

23. Value of reserve of external assets

(1) The value of the reserve of external assets provided for in section 22 shall be not less than an amount equivalent to 50 per cent of the total demand liabilities of the Bank, including currency in circulation:

Provided that –

(a) for the purpose of the calculation of the value of the assets of the reserve the value of any gold or silver content of coin issued under the provisions of this Act may be recorded as an asset of the reserve and shall be calculated by reference to the latest known London market price for gold and silver bullion respectively; and

(b) the value so calculated shall not exceed the face value of such coin.

(2) If in the opinion of the Board the value of the reserve of external assets appears to be in danger of falling below the level required under subsection (1), the Board shall submit to the Minister a report containing such recommendations as it considers appropriate to remedy the situation. The Board shall make further reports at intervals that shall not exceed 1 month until such time as, in the Board's opinion, the situation has been rectified.

(3) If the value of the reserve of external assets falls below the level specified in subsection (1) for longer than 90 consecutive days the Board shall take such measures as it considers appropriate to remedy the situation and shall inform the Minister forthwith of the measures taken.

24. Operations in gold and foreign exchange

The Reserve Bank may –

(a) buy, sell, or deal in gold coin or bullion;

(b) buy, sell, or deal in foreign exchange using for such transactions any of the instruments commonly used in those transactions;

(c) buy, sell, or deal in treasury bills and other securities issued or guaranteed by foreign governments or international financial institutions;

(d) maintain accounts with other central banks and financial institutions abroad;

(e) open and maintain accounts and act as agent or correspondent for foreign central banks, monetary authorities, banks, foreign governments and agencies, and international financial institutions.

25. (*Repealed*)

PART 7 – RELATIONS WITH BANKS AND OTHER FINANCIAL INSTITUTIONS

26. Opening accounts for financial institutions

The Reserve Bank may open accounts for, and accept deposits from financial institutions doing business in Vanuatu under such terms and conditions as the Board may from time to time determine.

27. Operations with account holders

The Reserve Bank may –

(a) issue drafts and effect other kinds of remittances payable at its own offices or at the offices of agents and correspondents;

(b) purchase from, sell to, discount and rediscount for account holders of the Reserve Bank, bills of exchange and promissory notes drawn or made for *bona fide* commercial, industrial, or agricultural purposes, bearing 2 or more good signatures of which 1 shall be that of a bank and maturing within 6 months from the date of their acquisition by the Reserve Bank;

(c) purchase from, sell to, discount and rediscount for, account holders of the Reserve Bank any treasury bills of the Government forming part of a public issue and maturing within 6 months of the date of their acquisition by the Reserve Bank;

(d) grant to account holders of the Reserve Bank advances for periods not exceeding 6 months secured by –

(i) instruments specified in paragraph (b) and (e) of this section;

(ii) warehouse warrants and documents of title issued in respect of staple commodities or other goods duly insured;

(iii) holding of any assets which the Reserve Bank is permitted to buy, sell, or deal in under section 24;

(iv) securities issued or guaranteed by the Government or any statutory corporation; or

(v) such other assets or on such terms and conditions as the Board may determine;

(e) for its own account, issue bills and notes from time to time in such amounts and on such terms as it shall decide, and purchase, sell, discount and re-discount such bills and notes:

Provided that such transactions need not be restricted to account holders.

28. Discounting of medium-term credits

(1) Notwithstanding the provisions of section 27, the Reserve Bank may, within a total limit to be determined by the Board, discount and rediscount for account holders, bills of exchange, promissory notes or other financial instruments maturing within 6 months from their date of acquisition by the Reserve Bank drawn or made in respect of medium-term credits repayable within 7 years and bearing 2 or more good signatures of which 1 shall be that of a bank:

Provided that the medium-term credits –

(a) have as their object the development of means of production or the construction of building; and

(b) have been given prior approval by the Reserve Bank on such terms and conditions, which may include a requirement for appropriate guarantees, as the Board may prescribe.

(2) For the purposes of this section the Vanuatu Agriculture Development Bank shall be considered to be a bank.

29. Determination of rates

The Reserve Bank shall determine and publicly announce from time to time its minimum rates for discounts, rediscounts, advances, loans or overdrafts, and may determine different rates for various classes of transactions or maturities.

30. Clearing and other services

The Reserve Bank may –

(a) in conjunction with banks organise facilities for the clearing of cheques and other instruments for effecting payments in Vanuatu;

(b) organise facilities on the basis of information furnished by financial institutions, for the centralisation of the date of –

(i) credit and banking risks;

(ii) unpaid cheques and other payment instruments.

31. Provision of information by financial institutions

(1) Notwithstanding the provisions of any other law, the Reserve Bank may require any financial institution to furnish, within such time and in such form as the Reserve Bank specifies, such returns and information regarding its operations in Vanuatu, or that of any related company, and, in the case of such financial institution which is incorporated in Vanuatu, also in respect of its operations overseas, as the Reserve Bank considers necessary to carry out its duties and functions, and to achieve its objects, under this

Act including the calculation of reserves which may be prescribed under the provisions of section 33.

(2) The Reserve Bank may require a financial institution to submit a certificate from its external auditor verifying the accuracy of any returns and information furnished under subsection (1).

(3) The Reserve Bank may in its absolute discretion impose upon any financial institution and upon any director or officer of that institution administrative fines for –

(a) failure to submit or for wilfully delaying the submission of any return or information required under subsection (1), or for wilfully submitting any false or inaccurate return or information required under subsection (1); or

(b) failure to submit the certificate of the external auditor, if required in accordance with subsection (2).

(4) The administrative fines shall be in amounts as may be determined by the Reserve Bank to be appropriate, but in no case may exceed VT 100,000 for each violation or where the violation is a continuing one, may not exceed VT 10,000 for every day during which the violation continues, and shall take into consideration the surrounding circumstances such as the nature and gravity of the violation. The administrative fines imposed pursuant to subsection (3) shall be a civil debt and if not paid may be enforced by action in a court of competent jurisdiction.

(5) A financial institution or any director or officer of that institution on whom an administrative fine is imposed pursuant to subsection (3) may, within 14 days of the date of notification of such fine, submit reasons to the Board why such fine should not be imposed. After consideration of such submission the Board may confirm, vary or rescind such fine.

(6) Any return or information provided by a financial institution under subsection (1), or obtained during the course of an inspection carried out pursuant to section 32, shall be regarded as confidential and shall not be disclosed except in the performance of duties under this Act, or if lawfully required by any court or other law:

Provided that, notwithstanding the provisions of section 13:

(a) disclosure is permitted in confidence to a supervisory authority in any other country for the purposes of the exercise of functions corresponding or similar to those conferred on the Reserve Bank under this Act:

(b) publication by the Reserve Bank in aggregated or summary form is permitted, in such a manner as to prevent any information disclosed from being identified by any person as relating to any particular person.

(7) For the avoidance of doubt, sections 31 and 32 of this Act apply to the National Bank of Vanuatu, notwithstanding the provisions of section 30 of the National Bank of Vanuatu Act No. 46 of 1989.

31A. Publication of financial statements

(1) Every licensed financial institution together with its subsidiaries shall in respect of its Vanuatu operations and, in the case of any such licensed financial institution which is incorporated in Vanuatu, also in respect of its overseas operations publish in the Official Gazette and in a newspaper published and circulating in Vanuatu, and exhibit thereafter in a conspicuous position in each of its offices and branches in Vanuatu, the audited balance sheet and profit and loss account of the licensed financial institution and its subsidiaries in such form and at such time as the Reserve Bank may require; advance copies of the statements shall be forwarded to the Reserve Bank 30 days prior to the publication.

(2) For the purpose of this section, a licensed financial institution shall include the Vanuatu branch operations of a licensed financial institution incorporated outside Vanuatu.

32. Inspection of financial institutions

(1) The Reserve Bank may cause inspections to be made by one or more of its officers or by other persons designated as examiners by the Reserve Bank of the books and accounts of any financial institution which in the opinion of the Reserve Bank is in danger of being unable to meet its obligations.

(2) For the purpose of performing its duties under this Act, and in the event that the information required by section 31 is not supplied, the Reserve Bank may cause inspections to be made by one or more of its officers or by other persons designated as examiners by the Reserve Bank of the books and accounts of any financial institution to ascertain the nature of its business and the conditions of its affairs.

(3) The person or persons carrying out an inspection authorised by subsections (1) and (2) shall have power to require any director, officer or employee of the financial institution being inspected –

(a) to furnish such information as he or they may require for the purpose of such inspection; and

(b) to produce for inspection any books, records, or other documents in its possession containing such information.

(4) If any information required to be furnished under subsection (3)(a) or if any item required to be produced under subsection (3)(b) has either not been furnished or produced or if furnished or produced has been falsified with intent to defraud any person or to deceive the officer or officers authorised to inspect the financial institution, the person responsible for such failure or for such falsification shall be guilty of an offence and shall be liable on conviction to a fine not exceeding VT 100,000 or to imprisonment for a term not exceeding 5 years or to both.

33. Bank may prescribe reserves

(1) The Reserve Bank may from time to time by notice (a copy of which notice it shall submit or cause to be submitted to the principal place of business in Vanuatu of each financial institution) prescribe the maintenance by each financial institution of ordinary or special reserves, calculated with regard to deposits or loans and other similar liabilities or assets which are denominated in Vatu or the depositor or beneficiary of which is a resident of Vanuatu.

(2) For the avoidance of doubt, the deposits, credits and other similar liabilities and assets referred to in subsection (1) shall not include those relating to banking business carried on from within Vanuatu in accordance with section 19 of the Banking Act, Cap. 63 or by exempted companies, trusts and local companies that do no business in Vanuatu and exist solely for the benefit of non-residents of Vanuatu.

(3) Reserves referred to in subsection (1) shall be maintained in the form of holdings of Vatu notes and coin or of deposits with the Reserve Bank or in such other manner as the Reserve Bank may prescribe or in such proportions of each of the foregoing as the Reserve Bank may from time to time prescribe.

(4) The Reserve Bank may, at its discretion, fix a rate or rates of interest to be paid to financial institutions on all or part of any required reserves prescribed to be maintained under subsection (1).

(5) The Reserve Bank may prescribe different reserve ratios for different classes of deposit or loan and other similar liability or asset and shall prescribe the method of their computation:

Provided that –

(a) the Reserve Bank shall not require a financial institution to hold a total amount of reserves in excess of 25 per cent of that financial institution's total deposits or loans and other similar liabilities or assets in respect of which reserves have been prescribed under this section;

(b) the prescribed ratios shall be uniform for all financial institutions of the same class; and

(c) the initial prescription of, and any change in, the reserve ratios shall only be effective after reasonable notice, being not less than 30 days, and shall not relate to a period prior to the initial date of notice.

(6) The Reserve Bank may impose on any financial institution which fails to maintain the appropriate prescribed level of reserves a levy of one-fifth of 1 per cent per day of the amount of the deficiency in prescribed reserves until such time as the deficiency is corrected.

34. Regulation of interest and credit

(1) The Reserve Bank may, in relation to business in Vatu with the approval of the Minister, prescribe by notice in the Gazette and by written notice to the principal place of business in Vanuatu of each financial institution –

(a) the methods of computation and either the maximum or the minimum rates of interest payable in respect of deposit and other similar liabilities or both such rates;

(b) the permissible purposes, aggregate ceilings and maximum amounts beyond which the approval of the Reserve Bank is necessary and the maximum maturities, and either the maximum or minimum interest rates chargeable in respect of advances, discounts, letters of credit, acceptance and other forms of credit or both such rates.

(2) The Reserve Bank may in relation to all other business with residents of Vanuatu, with the approval of the Minister, prescribe by notice in the Gazette and by written notice to the principal place of business in Vanuatu of each financial institution the permissible purposes and aggregate ceilings or maximum amounts beyond which the approval of the Reserve Bank is necessary and the maximum maturities in respect of advances, discounts, letters of credit, acceptances and other forms of credit:

Provided that such business shall not include business of exempted companies, trusts and local companies that do no business in Vanuatu and exist solely for the benefit of non-residents of Vanuatu.

(3) The Reserve Bank in its notices under subsections (1) and (2) may differentiate in respect of those items between banks, financial institutions other than banks and other creditors and, between individual financial institutions other than banks and individual other creditors.

(4) The Reserve Bank may, with the approval of the Minister, prescribe by notice in the Gazette and by written notice to the principal place of business in Vanuatu of each financial institution the minimum cash margin or security required in respect of the items specified in subsections (1) and (2).

(5) Any financial institution which wilfully violates subsection (1), (2) or (4) may be required to pay to the Reserve Bank for such violation a penalty not exceeding VT 100,000.

(6) With the approval of the Minister, the provisions of subsections (1), (2) and (4) may be made applicable by the Board, by notice in the Gazette and by written notice served on any person having as a principal or incidental object of his business the extension of credit. The Reserve Bank shall have authority to examine the accounts, books, and papers of any person who it has reason to suspect is extending or has extended credit

in violation of this subsection and the refusal to submit such accounts, books and papers shall be *prima facie* evidence of such violation.

(7) Any person to whom the provisions of subsections (1), (2) or (4) have been made applicable pursuant to subsection (6) shall be guilty of an offence if –

(a) such person is in breach of this section; or

(b) such person supplies false information or fails to furnish, within a prescribed time, any information required by the Bank to satisfy it that such a person is complying with this section.

(8) Any person guilty of an offence under subsection (7) shall be liable on conviction –

(a) in respect of an offence under paragraph (a) thereof to a fine not exceeding VT 100,000; or

(b) in respect of an offence under paragraph (b) thereof to a fine not exceeding VT 10,000 for every day during which the offence is committed.

(8A) By notice published in the Vanuatu Gazette and also by written notice to the principal place of business in Vanuatu of each financial institution affected thereby, the Reserve Bank may specify in respect of any or all financial institutions either the minimum or the maximum, or both the minimum and maximum commissions, margins, service charges and fees of any nature whatsoever which may be levied on any class of transactions by these financial institutions either with their customers, or the public, or with both the customers and the public.

(9) Any notice under this section shall come into effect on such date as is specified in it but in any case not earlier than 30 days after the date of publication.

PART 8 – RELATIONS WITH THE GOVERNMENT

35. Reserve Bank to be banker, fiscal agent, depository and adviser to the Government

(1) The Reserve Bank shall –

(a) be the banker and fiscal agent of the Government and shall be the depository of Government funds:

Provided that the Reserve Bank may act in such capacities for any Ministry, Constitutional Entity, Statutory Entity or Statutory Corporation;

(b) act as agent for the Government in the execution of the provisions of any banking legislation currently in force and generally otherwise where it can do so;

(c) undertake, as agent for the Government, the issue, placement and service of any Government securities and act as registrar for such issues of Government securities;

(d) serve, upon designation by the Minister, as the depository and fiscal agency of, and the institution through which dealings shall be conducted with, international financial institutions of which Vanuatu is a member;

(e) at the request of the Minister render advice to him and furnish him with reports on matters relating to the objects of the Reserve Bank set out in section 3;

(f) have the duty of informing and advising the Minister on any matter which in the opinion of the Reserve Bank is likely to affect the achievement of its purposes;

(g) be consulted on any proposed Bill or Order concerning money and credit including –

(i) the value of the currency and any change thereof;

(ii) any matter relating to banking;

(iii) the distribution and control of credit;

(iv) the regulation of cheques and other financial instruments;

(v) the suppression of counterfeiting of currency;

and shall assist in the enforcement of any law relating to this section;

(h) be advised of the estimated expenditures and revenues of the Government in foreign exchange and shall be responsible for drawing up the national balance of payments and other economical statistics, to which end it may ask all public and private bodies for any necessary statistical information.

Any person who –

(i) fails to comply with a request for information under this paragraph; or

(ii) knowingly supplies any information under this paragraph that is incomplete or false in any material particular; or

(iii) fails to furnish, within the time specified by the Reserve Bank, any information or documents requested by the Reserve Bank under this paragraph,

shall be guilty of an offence; and shall be liable on conviction –

(iv) in respect of an offence under subparagraph (i) thereof, to a fine not exceeding VT 1,000,000; or

(v) in respect of an offence under subparagraph (ii) thereof, to a fine not exceeding VT 1,000,000; or

(vi) in respect of an offence under subparagraph (iii) thereof, to a fine not exceeding VT 1,000,000.

(2) (a) If, after consultation with the Reserve Bank, the Minister is of the opinion that the policies being pursued by the Reserve Bank are not adequate for, or conducive to, the achievement of the objects of the Reserve Bank set out in section 3, the Minister shall submit a recommendation to the Council of Ministers, and the Council of Ministers may, by directive, determine the policy to be adopted by the Reserve Bank.

(b) The Minister shall inform the Reserve Bank of the policy so determined and that the Government accepts responsibility for the adoption of the policy.

(c) The Reserve Bank shall thereupon give effect to such policy while the directive remains in operation.

(d) Any directive issued under paragraph (a) shall be published forthwith in the Gazette.

35A. Bi-annual Monetary Statement

The Reserve Bank must publish a monetary policy statement of the Bank at least once on March and September of each Calendar year.

36. Acquisition of evidence of indebtedness issued by the Government

The Reserve Bank may buy, sell, or deal in notes, bills, stocks, shares, foreign exchange, securities or other evidence of indebtedness issued or guaranteed by the Government or any statutory corporation, or by the Government of another country, which were publicly offered for

sale or form part of an issue which is being made to the public at the time of acquisition by the Reserve Bank and which mature in not more than 20 years.

37. Advances to the Government

(1) The Reserve Bank may grant temporary advances to the Government in respect of temporary deficiencies of current budget revenue, subject to repayment within 6 months after the date on which they are granted, at such rates of interest as the Bank may determine.

(2) If at the end of any financial year, any advance remains unpaid within the period provided for by subsection (1), such advance shall be taken into account when determining the maximum advances that may be made under such subsection in the following year.

(3) Without limiting the generality of subsection (1) the Reserve Bank is expressly authorised to make advances to the Government, on such terms and conditions as may be agreed, in respect of subscriptions and other payments resulting from, or incidental to, the membership of Vanuatu in any international financial institution, the participation of Vanuatu in any account thereof, and any transactions and operations undertaken in connection therewith.

(4) Notwithstanding anything to the contrary in any provision of this Act, the Reserve Bank may purchase or acquire or hold on its behalf Government notes, bills, securities or other evidences of debt.

38. Credit to the Government and statutory corporations

(1) Except in accordance with this section and sections 27, 36 and 37 the Reserve Bank shall not, directly or indirectly make advances to the Government or acquire the notes, bills, securities or other evidence of debt of, or guaranteed by, the Government:

Provided that this section shall not operate to prevent the acquisition by the Reserve Bank of securities in accordance with section 5(4) and section 25(2) or its making advances in accordance with section 27(d)(iv) and section 37(3) or its making purchases in accordance with section 37(4).

(2) The total amount of outstanding advances made by the Reserve Bank to the Government and the holdings by the Reserve Bank of notes, bills, securities or other evidence of debt of, or guaranteed by, the Government exclusive of the holdings pursuant to section 5(4), section 25(2), section 27(d)(v), section 37(3) and section 37(4) shall at no time exceed twenty percent of the average annual ordinary revenue of the Government as determined in subsection (3) except as provided in subsection (5).

(3) For the purposes of subsections (2) and (5) –

(a) the ordinary revenue of the Government shall include revenues from taxes, levies, duties and fees, rents, profits and income from any investment or undertaking by the Government and any contribution to the revenue of the Government from any statutory corporation but shall not include loans, grants, or other forms of economic aid capital raised;

(b) the average of the annual ordinary revenue shall mean the average of the annual ordinary revenues for the 3 financial years immediately preceding for which accounts are available.

(4) If in the opinion of the Board, the limitation provided in subsection (2) appears to be in danger of being exceeded, the Reserve Bank shall submit to the Minister a report containing such recommendations as it considers appropriate to remedy the situation. The Reserve Bank shall make further reports at intervals not to exceed 3 months until such time as, in its option, the situation has been rectified.

(5) If the limitation provided for in subsection (2) is reached, the Reserve Bank shall forthwith notify the Minister of the fact and shall permit no further increase, whether directly or indirectly, in the Reserve Bank's advances to the Government and holdings by it of Government debt:

Provided that the Minister may by written directive order the Reserve Bank to permit temporary further increases in the total subject to an overall limitation of 30 per cent of the average annual ordinary revenue of Government on such terms and conditions as may be determined by the Government for a period not exceeding 6 months, in which event the Minister shall advise the Reserve Bank that the Government accepts responsibility for the adoption of the policy so determined, and the Reserve Bank shall thereupon give effect to that policy while the directive remains in operation.

PART 9 – ACCOUNTS, AUDIT AND REPORTS TO ACCOUNTING AND AUDITING

39. Financial year and approval of budget

(1) The financial year of the Reserve Bank is the same as the financial year of the Government.

(2) The Board is to approve the annual Reserve Bank budget and may publicly report the actual and budgeted data if it thinks appropriate.

40. Audit

(1) The accounts of the Reserve Bank shall be audited annually by auditors appointed by the Board with the approval of the Minister.

(1A) The appointment made under subsection (1) is for a period of 5 years.

(2) Without prejudice to the provisions of subsection (1) the Minister may at any time request the Auditor-General to examine and report on the accounts of the Reserve Bank or any aspect of the Bank's operations and the Reserve Bank shall provide the Auditor-General with all necessary and proper facilities for such an examination.

40A. Audit Committee

(1) The Audit Committee of the Reserve Bank is established.

(2) The Committee consists of 4 members who are to be appointed for a period of 3 years by the Governor after consultation with the Minister.

(3) The following persons are to be members of the Committee:

(a) the Deputy Governor, ex officio;

(b) a board member other than the Governor;

(c) a senior manager of a government statutory body, a private accounting firm or a bank;

(d) a senior head of the department within the Reserve Bank other than the head of the department of Accounts and Internal Audit.

(4) The Governor must appoint from amongst the members, other than the Deputy Governor, the Chairperson of the Committee.

(5) The Committee has the following functions:

(a) to assist the Governor and the Board to carry out their functions under the Reserve Bank Act [CAP 125]; and

(b) to assess the internal audit performance in complying with internal control and audit objectives of the Internal Audit Charter.

(6) The Committee is to meet at least once every 3 months.

(7) The quorum at a meeting of the Committee is 3 members present at a meeting.

(8) If a decision cannot be reached by consensus in a meeting, the matter is to be determined by a majority vote of the members who are present and voting.

(9) If the vote is equal, the Chairperson presiding at the meeting has a casting vote.

(10) The Committee may require any person within the Reserve Bank to provide any information to assist the Committee to carry out its function under this section.

(11) A Committee member other than the Deputy Governor or a senior officer of the Reserve Bank is entitled to a sitting allowance of not more than VT10, 000 for each day in which the Committee sits for a meeting.

41. Publication of accounts and annual report

(1) The Reserve Bank shall, within 4 months after the end of each financial year, cause to be made and transmit to the Minister –

(a) a report of the operations of the Reserve Bank during that year; and

(b) a copy of the annual statement of accounts of the Reserve Bank certified by auditors appointed under section 40.

(2) The Minister shall as soon as practicable after their receipt –

(a) cause a copy of the report and annual statement of accounts to be laid before Parliament; and

(b) cause a copy of the annual accounts to be published in the Gazette.

(3) The Reserve Bank shall as soon as practicable after –

(a) the last working day in March, June, September and December of each year make up and publish in the Gazette, a statement showing its assets and liabilities at the close of business on that day; and

(b) the last working day in each month transmit a similar statement to the Minister.

PART 10 – GENERAL

42. Exemption from taxes and stamp duties

The Reserve Bank shall be exempt from all taxes and stamp duties on its profits, operations, capital, property and bank notes and documents.

43. Prohibited activities

Except as expressly authorised by this Act, the Reserve Bank may not –

(a) engage in trade, purchase the shares of any corporation or company, including the shares of any banking company or otherwise have an ownership interest in any commercial, agricultural, industrial, and other undertaking, except such interest as the Reserve Bank may acquire in the course of satisfaction of debts due to it:

Provided that all such interests so acquired shall be disposed of at the earliest suitable opportunity;

(b) make loans to any person, except, that the Reserve Bank shall not be precluded from making loans secured by first mortgages or otherwise to an officer or servant of the Reserve Bank for the purchase of a residence or for such other purpose as may be approved by the Reserve Bank;

(c) purchase, acquire or lease real property except in so far as the Board considers necessary or expedient for the provision or future provision of business premises for the Reserve Bank or its branches, or of residences for officers or servants of the Reserve Bank or of any other requirement incidental to the performance of its functions under this Act.

44. Dealings in shares for development purposes

Notwithstanding the provisions of section 43(a), the Reserve Bank may, with the approval of the Minister, purchase, hold and sell shares in any corporation set up with the approval of the Government for the purpose of facilitating the financing of development:

Provided that the total value of any holding of such shares shall not at any time exceed an amount equivalent to 20 per cent of the General Reserve.

45. Prohibited names

Save with the written consent of the Minister on the recommendation of the Reserve Bank, no bank shall hereafter be licensed under any banking legislation in Vanuatu by a name which includes any of the words "Vanuatu", "Central", "Reserve", "Republic" or "State", or their equivalent in any other language.

46. Exemption from banking laws

The Reserve Bank shall not be subject to any of the provisions of any current banking laws in Vanuatu.

Table of Amendments (since the Revised Edition 1988)

[Note that this Act was re-numbered in the 1988 Edition, but amending Act 7 of 1989 referred to the earlier section numbers. Where these are different, the earlier section numbers are in brackets following the Act.]

Long Title	*Amended by Act 17 of 2009*
1	*Amended by Acts 12 of 1997, 17 of 2009*
3(aa)	*Inserted by Act 7 of 1989*
3(e)	*Amended by Act 17 of 2009*
3(f)	*Inserted by Acts 17 of 2002, 17 of 2009*
3(g)	*Inserted by Act 17 of 2009*
5(4)	*Amended by Act 9 of 2009*
5(4)	*Substituted by Act 35 of 2010*
5(4A)	*Inserted by Act 35 of 2010*
6	*Amended by Act 7 of 1989*
6	*Substituted by Act 9 of 2009*
6A	*Inserted by Act 7 of 1989*
6A	*Repealed by Act 9 of 2009*
7(6)	*Inserted by Act 35 of 2010*
7(2)	*Substituted by Act 9 of 2009*
7(2A) & (2B)	*Inserted by Act 9 of 2009*
8	*Substituted by Act 7 of 1989*
8(3)	*Amended by Act 9 of 2009*
8(3)(a)	*Amended by Act 5 of 2008*
8(3)(b)	*Substituted by Act 9 of 2009*
8(3)(c)	*Amended by Act 9 of 2009*
8(4)	*Substituted by Act 9 of 2009*
8(4A)	*Inserted by Act 5 of 2008*
8(4A)	*Substituted by Act 9 of 2009*
8(4B)	*Inserted by Act 1 of 2020*
8(5)	*Amended by Acts 5 of 2008, 9 of 2009, 1 of 2020*
8A, 8B	*Inserted by Act 7 of 1989*
8A(1)	*Amended by Act 20 of 1989*
9(2)	*Substituted by Act 7 of 1989*
9(2)	*Amended by Act 9 of 2009*
9(4)	*Inserted by Act 7 of 1989*
10	*Amended by Act 7 of 1989*
11	*Substituted by Act 7 of 1989*
11A	*Inserted by Act 9 of 2009*
13A	*Inserted by Act 12 of 1997*
16(a)	*Amended by Act 12 of 1997*
20(5)	*Inserted by Act 7 of 1989 [21(5)]*
25	*Repealed by Act 9 of 2009*
27(d)	*Amended by Act 12 of 1997*
27(d)(i)	*Substituted by Act 12 of 1997*
27(d)(iv)	*Amended by Act 7 of 1989 [28(d)(iv)]*
27(e)	*Inserted by Act 12 of 1997*
28(2)	*Amended by Act 17 of 2009*
31	*Substituted by Act 12 of 1997*
31A	*Inserted by Act 12 of 1997*
32(1),(2),(3)	*Amended by Act 12 of 1997*
34(8A)	*Inserted by Act 7 of 1989 [35(8A)]*
35(1)(a)	*Amended by Act 2 of 2010*
35(1)(h)	*Amended by Acts 7 of 1989 [36(1)(h)], 9 of 2009*
35A	*Inserted by Act 9 of 2009*
Part 9 (heading)	*Amended by Act 9 of 2009*
37(1)	*Amended by Act 12 of 1997*
37(4)	*Inserted by Act 7 of 1989 [38(4)], Substituted by Act 12 of 1997*
38(1),(2)	*Substituted by Act 7 of 1989 [39]*
38(5)	*Amended by Act 7 of 1989 [39(5)]*
39	*Substituted by Act 9 of 2009*
40(1A)	*Inserted by Act 9 of 2009*
40A	*Inserted by Act 9 of 2009*
Throughout	*Change of name from Central Bank of Vanuatu to Reserve Bank of Vanuatu, per Act of 1989*
Throughout	*Change of title from General Manager to Governor, per Act 7 of 1989*